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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,317	08/29/2001	Thuan Pham	8016-548	7738

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EXAMINER

EL ARINI, ZEINAB

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,317

Applicant(s)

PHAM, THUAN

Examiner

Zeinab E. EL-Arini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-17, 19, 20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-17, 19-20, 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment and remarks filed 08/24/05 have been acknowledged and entered.

Claims 2-8, 10-17, 19-20, and 22-30 are pending.

Claim Rejections - 35 USC § 112

The rejection under 35 U.S.C. 112, first paragraph, stated in paper No. 032405 has been withdrawn in view of applicant's amendment and remarks.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 19, 2-8, 11-17, 20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biancalana et al. (4,552,163).

Biancalana et al. disclose a device for cleaning, disinfecting and drying instruments. The device comprises a housing, at least one nozzle, a sensor adapted to detect a presence of the object to be cleaned, and a valve as claimed. The reference also discloses that when the instrument is introduced into the chamber under the control of the photoelectric cells, the operative cycle starts and the valves 33, 34, open, thus providing pressurized air and water to the nozzles 10, so that pressurized air reaches said nozzles. At the same time valve 35 opens, therefore the atomizer 12 starts to work and a flow of air containing disinfectant reaches the nozzles 11. After the predetermined

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washing time, the electro-valves 33 and 34 close. The reference also discloses water-air mixing unit. See col. 4, lines 54-64, col. 3, lines 51-56, and claims 1 and 6.

Biancalana et al. as discussed supra disclose all limitation with the exception of the alcohols as claimed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the alcohol as disinfectant agent which is inherently cleaning agent in the Biancalana et al. to obtain the claimed apparatus, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.,

It would have been obvious for one skilled in the art to use the alcohols as disinfectant agent in the Biancalana et al. cleaning apparatus to enhance the cleaning and to obtain the claimed apparatus. This is because it is well known in the art that the alcohols can be used as cleaning and disinfecting solution. Therefore one skilled in the art would use the alcohols instead of the disinfectant taught by Biancalana et al. to obtain the claimed apparatus. The disinfectant solution is inherently used as cleaning solution.

Re claim 17, the limitation of claim 17, is for intended use limitation.

2. Claims 10 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biancalana et al. as applied to claims 19, 2-8, 11-17, 20, and 22-29 above, and further in view of Gaydoul et al. (6,029,681).

Biancalana et al. as discussed supra do not teach means for adjusting a distance as claimed.

Gaydoul et al. disclose the means for adjusting the distance as claimed. See the abstract.

It would have been obvious for one skilled in the art to use the distance adjusting means taught by Gaydoul et al. in the Biancalana et al. apparatus to improve the efficiency of the cleaning apparatus.

Response to Arguments

3. Applicant's arguments with respect to claims 2-8, 10-17, 19, 20, and 22-30 is unpersuasive, because claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does". Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ 2d 1525, 1528 (Fed. Cir. 1990).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (571) 272-1301. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zeinab Elarini
Zeinab E. EL-Arini
Primary Examiner
Art Unit 1746

ZEE
11/01/05